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PATENT
ATTORNEY DOCKET NO. 06543/035001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Brian J. Reistad et al.
Serial No.: 09/054,180
Filed : April 1, 1998
Title : ELECTRONIC COMMERCE SYSTEM

Art Unit: 2765
Examiner: John Campa

Assistant Commissioner for Patents
Washington, DC 20231

RESPONSE TO REQUIREMENT FOR RESTRICTION

Responsive to the Examiner's action dated April 12, 1999, Applicants elect the invention of Group I and claims 1-3.

The election is made with traverse. Each of the eight groups identified by the Examiner are listed in the same class 705, and three of the groups are even listed in the same subclass 26. Applicant submits that it would not be a "substantial burden" on the Examiner to search and examine these claimed features together. See M.P.E.P. §803 (emphasis added):

If the search and examination of an entire application can be made without serious burden the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

The Examiner merely states that the search required for each group is not required for any of the other groups. More than this is needed, however. See M.P.E.P. §803 (emphasis added):

For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation either separate classification, separate status in the art, or a different field of search as defined in MPEP §808.02.

M.P.E.P. §808.02 further specifies that for a different field of search the appropriate explanation must specify that it is

Date of Deposit May 12, 1999
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"necessary to search for one of the distinct subjects in places where no pertinent art to the other subject exists" (emphasis added).

The Examiner's mere conclusory statements that the search required for each group is not "required" for any of the other groups is not an "appropriate explanation" as to a "serious burden" on the Examiner due to it being "necessary to search for one of the distinct subjects in places where no pertinent art to the other subject exists." The Examiner does not provide the specific parameters of the different fields of search and does not specifically indicate why "no pertinent art" exists in each of these fields that would be relevant to each of seven other subjects (a total of at least eight fields of search times seven other subjects = at least 56 specific instances in which an explanation is required as to why "no pertinent art" exists).

Applicant submits, therefore, that the eight-way restriction requirement is unduly unreasonable, and requests that the claims be examined together, or, if a new restriction requirement is issued, that an "appropriate explanation" as to "a serious burden on the examiner" in accordance with the standards required by the M.P.E.P.

Please charge any fees due in connection with this response to Deposit Account No. 06-1050.

Respectfully submitted,

Date: May 12, 1999

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